

# **EXHIBIT Y**

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## UNITED NATIONS

OFFICE OF THE UNITED NATIONS  
HIGH COMMISSIONER FOR HUMAN RIGHTSSPECIAL PROCEDURES OF THE COMMISSION  
ON HUMAN RIGHTS

Mandates of the Special Rapporteur on the question of torture, Special Rapporteur on Human Rights and counter terrorism, established by the Commission on Human Rights

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17 November 2005

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the question of torture and Special Rapporteur on Human Rights and counter terrorism pursuant to Commission on Human Rights resolutions 2005/39 and 2005/80 respectively.

In this connection, we would like to draw the attention of your Government – as well as the attention of the Governments of United States, Jordan and Indonesia, which we are addressing in this matter too – to information we have received regarding Mr. **Salah Nasser Salim 'Ali**, a 27 years old Yemeni citizen who lived in Jakarta, Indonesia, and Mr. **Muhammad Faraj Ahmed Bashmilah**, aged 37, Yemeni citizen, who also lived in Indonesia. The two men were the subject of an urgent appeal sent by the Working Group on Arbitrary Detention on 12 August 2005 According to the information received:

Salah Nasser Salim 'Ali was detained in Jakarta by Indonesian police on 19 August 2003 and taken to the main immigration centre in the Kuningan area of Jakarta. After four days of incommunicado detention, during which he was handcuffed, blindfolded and without food, Salah Nasser Salim 'Ali was told that he would be deported to Yemen, via Thailand and Jordan. Upon arrival at the airport in Amman, however, he was taken to a detention facility of the Jordanian intelligence service, where he was interrogated about a past stay in Afghanistan and routinely beaten, spat on, verbally abused and threatened with sexual abuse and electric shocks by Jordanian officials. At one instance they tried to force him to sit on a bottle so that it would penetrate his anus. He was suspended upside down, hands and feet tied, and beaten with sticks on the soles of the feet. On other occasions during the four days he was surrounded by 15 guards in a circle. The guards made him run around in the circle until he was exhausted. At this point the guards ran after him, beating him with a stick. When he was so tired that he could run no longer, the guards lay him down in the centre and all took turns to beat him.

Muhammad Farah Ahmed Bashmilah travelled to Jordan with his wife in October 2003. On arrival at Amman airport, Jordanian immigration authorities took his passport. Three days later, on 19 October 2003, he was arrested by the Jordanian Da'irat al-Mukhabarat al-'Amah (General Intelligence Department (GID)), who kept him in custody for four days. During this period he was repeatedly tortured.

H.E. Mr. Farag Saeed Bin Ghanem  
Ambassador Extraordinary and Plenipotentiary  
Permanent Representative of Yemen  
To the United Nations Office at Geneva  
19 Chemin du Jorc

From detention in Jordan Salah Nasser Salim 'Ali and Muhammad Farah Ahmed Bashmilah were transferred to a detention centre under United States control. They were taken to this detention centre blindfolded by a several hours long plane flight and detained underground, and are therefore not able to identify the location of the detention centre. Both the forces in charge of transferring them and those in charge of the detention centre were from the United States. The cells in which they were held in solitary confinement for between 6 and 8 months were approximately 1.5m x 2m with buckets instead of toilets. They were subsequently transferred to a second detention centre under United States control, again blindfolded, by plane and helicopter, so that they are not able to identify the location of the facility.

In both places, Salah Nasser Salim 'Ali and Muhammad Farah Ahmed Bashmilah were interrogated about their activities in Afghanistan and Indonesia, and about their knowledge of other persons suspected of terrorist activities. The two men were kept in US custody for 20 and 18 months respectively. During this period they were held underground, in solitary, incommunicado confinement, with no contact but the prison guards, interrogators and interpreters. Noise was piped into their cells uninterruptedly, 24 hours a day.

At the beginning of May 2005 Muhammad Farah Ahmed Bashmilah and Salah Nasser Salim 'Ali were transferred to Yemen, where they were detained in the central prison of Aden. They were subsequently briefly taken to Sana'a. They are currently detained at the Fateh political security facility in Aden, where they have received visits by their family. Neither of the two men has been charged or tried with any offence and neither has been informed of the reason for their continued detention. Reportedly, the reason for their detention is that their transfer from detention by United States forces was conditional upon them being held in Yemen.

Without in any way implying any conclusion as to the facts of the case, we would like to appeal to your Excellency to seek clarification of the circumstances with a view to ensuring that the right to physical and mental integrity of the above-named persons is protected. This right is set forth *inter alia* in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Declaration on the Protection of All Persons from being subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention against Torture.

In this regard we also wish to remind you that GA Resolution 59/191, in its paragraph 1 stresses "that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law;"

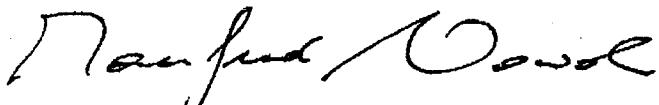
We urge your Government to take all necessary measures to guarantee that the rights and freedoms of the aforementioned persons are respected and accountability of any person guilty of the alleged violations ensured.

Moreover, it is our responsibility under the mandates provided to us by the Commission on Human Rights and reinforced by the appropriate resolutions of the General Assembly, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Commission, we would be grateful for your cooperation and your observations on the following matters:

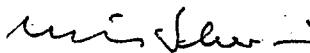
1. Are the facts alleged in the above summary of the case accurate?
2. Have complaints been lodged before any authorities of Yemen? Do they contain any allegations of torture?
3. Please inform us about the legal basis for the detention in Yemen and which procedures are in place to ensure that the detainees have recourse to judicial review of the lawfulness of their detention.
4. Please indicate whether the applicable legal basis for measures by Yemen in respect of the two individuals refers to "terrorism". If so, please share the relevant excerpts of the legislation with us.
5. Please provide information on whether Salah Nasser Salim 'Ali and Muhammad Faraj Ahmed Bashmilah receive medical treatment in accordance with their needs and whether they have access to rehabilitation programmes.

We would appreciate a response within sixty days. We undertake to ensure that your Government's response to each of these questions is accurately reflected in the reports we will submit to the Commission on Human Rights for its consideration.

Please accept, Excellency, the assurances of our highest consideration.



Manfred Nowak  
Special Rapporteur on the question of torture



Martin Scheinin  
Special Rapporteur on Human Rights and counter terrorism